

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

SEP 27 1999

In the Matter of

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Promotion of Competitive Networks in
Local Telecommunications Markets

WT Docket No. 99-127

217

Wireless Communications Association
International, Inc. Petition for Rulemaking to
Amend Section 1.4000 of the Commission's
Rules to Preempt Restrictions on Subscriber
Premises Reception or Transmission
Antennas Designed to Provide Fixed Wireless
Services

Cellular Telecommunications Industry Association
Petition for Rule Making and Amendment of the
Commission's Rules to Preempt State and Local
Imposition of Discriminatory And/or Excessive
Taxes and Assessments

Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996

CC Docket No. 96-98

REPLY COMMENTS OF CAIS, INC.

Charles A. Rohe
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
(202) 424-7500

Counsel for CAIS, Inc.

September 27, 1999

No. of Copies rec'd 018
List ABOVE

SUMMARY

CAIS, Inc. ("CAIS") hereby submits reply comments in the above captioned proceeding, emphasizing that it is critical for the Federal Communications Commission to mandate a single demarcation point in every Multi-Tenant Environment. The demarcation point should uniformly be located at the Minimum Point of Entry. As an alternative, the Commission should adopt regulations that ensure in-house wiring, regardless of ownership, is made available to all potential users. CAIS believes that incumbent local exchange carriers represent the single group of commenters who are overwhelmingly opposed to this strategy, and argues that the incumbents' reasons for opposition are unpersuasive. CAIS also stresses the need for FCC participation and oversight in relocating the demarcation point, particularly with respect to valuation of facilities and the costs of relocation.

TABLE OF CONTENTS

SUMMARY i

I. COMMENTS DO NOT CHALLENGE THE
 COMMISSION’S AUTHORITY TO ADOPT NATIONAL
 RULES FOR A UNIFORM DEMARCATION POINT
 IN MULTI-TENANT ENVIRONMENTS 2

II. COMMENTS DEMONSTRATE SUBSTANTIAL SUPPORT
 FOR A UNIFORM DEMARCATION POINT 3

III. OPPONENTS ARE INCORRECT IN ARGUING AGAINST
 CHANGES IN DEMARCATION POINT RULES 4

IV. THE COMMISSION MUST EXERCISE ITS AUTHORITY
 TO RESOLVE THE VALUATION OF INSIDE WIRING
 OWNED BY INCUMBENT LECS 5

V. CONCLUSION 6

Reply Comments of CAIS, Inc.
WT Docket No. 99-217
CC Docket No. 96-98
Filed September 27, 1999

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Promotion of Competitive Networks in)	WT Docket No. 99-127
Local Telecommunications Markets)	
)	
Wireless Communications Association)	
International, Inc. Petition for Rulemaking to)	
Amend Section 1.4000 of the Commission's)	
Rules to Preempt Restrictions on Subscriber)	
Premises Reception or Transmission)	
Antennas Designed to Provide Fixed Wireless)	
Services)	
)	
Cellular Telecommunications Industry Association)	
Petition for Rule Making and Amendment of the)	
Commission's Rules to Preempt State and Local)	
Imposition of Discriminatory And/or Excessive)	
Taxes and Assessments)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications Act of 1996)	
)	

REPLY COMMENTS OF CAIS, INC.

CAIS, Inc. ("CAIS"), by its undersigned counsel, hereby submits reply comments in the above captioned proceeding. In its comments filed August 27, 1999, CAIS addressed a number of

issues affecting competition in the local telecommunications marketplace.¹⁷ CAIS explained that its service offerings utilize technology that exploits previously-wasted frequency spectrum on existing in-house copper wiring within Multi-Tenant Environments ("MTEs"), a technology that incumbent local exchange carriers oppose for any wiring that they, themselves, also utilize for the provision of their own services. To eliminate this obstruction, CAIS deems it critical that the Federal Communications Commission ("FCC" or the "Commission") mandate a single demarcation point in every MTE, separating in-house wiring from network wiring, to be uniformly located at the Minimum Point of Entry ("MPOE"). As an alternative, the Commission should adopt regulations that ensure in-house wiring is made available to all potential users, regardless of ownership. CAIS also advocates preemption of state authority by the Commission over inside wiring to ensure that consistent nationwide policies develop with respect to MTE wiring facilities. CAIS is pleased to see wide support for many of the positions it advocates from other parties having submitted comments.

I. COMMENTS DO NOT CHALLENGE THE COMMISSION'S AUTHORITY TO ADOPT NATIONAL RULES FOR A UNIFORM DEMARCATION POINT IN MULTI-TENANT ENVIRONMENTS.

Of all the comments CAIS has reviewed, none appears to have challenged the Commission's authority to adopt national rules relating to existing in-house wiring. Some commenters distinguish carefully between in-house wiring and conduit, and conclude that the latter is not subject to

¹⁷ *In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets, etc.*, WT Docket No. 99-217, CC Docket No. 96-98, Notice of Proposed Rulemaking and Notice of Inquiry in WT Docket No. 99-217, and Third Further Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 99-217 (rel. July 7, 1999)("NPRM"). See also, *id.*, Comments of CAIS, Inc., filed August 27, 1999. ("CAIS NPRM Comments").

Commission jurisdiction.^{2/} In fact, a number of commenters claim that the Commission may not impose mandatory access to MTEs or regulate the rates which private landowners charge for use of their property. However, those comments address narrow questions posited by the Commission on issues of rooftop access, exercise of eminent domain rights, the scope of rights-of-way, and other matters.^{3/} In its Notice of Proposed Rulemaking, the Commission lists numerous statutory references to support its adoption of national rules, none of which has been refuted with respect to regulation of inside wiring or determining the point of demarcation^{4/}. The Commission has already exercised its authority over inside wiring when it adopted Part 68 of the Commission's rules.^{5/}

II. COMMENTS DEMONSTRATE SUBSTANTIAL SUPPORT FOR A UNIFORM DEMARCATION POINT.

CAIS recognizes that a significant number of property owners submitted comments opposing any change to rules governing the demarcation point, although the volume of opposition is related to a very large number of form letters expressing that view. CAIS has noted that in most individually-drafted comments by property owners and their agents and associations, the commenters are either silent on the issue of relocating the demarcation point, or support a regulation

^{2/} See, e.g., Comments of Cincinnati Bell Telephone Company at 3, 5.

^{3/} See e.g., *Id* at 4; BellSouth Comments 13-14; Comments of the Electric Utilities Coalition at 12; Joint Comments of Cornerstone Properties, *et al.* at 11.

^{4/} NPRM at ¶ 56.

^{5/} E.g., 47 C.F.R. §§ 68.213 and 68.215 (1997).

for its consistent placement.^{6/} Likewise, the competitive telecommunications service providers that give an opinion on the proper site of the demarcation point are in favor of a uniform location.^{7/} Most new entrants who expressed a view on location of the demarcation point wish it to be located at the MPOE.^{8/} Only the incumbent local exchange carriers are generally opposed.^{9/} With just the traditional monopoly carriers steadfastly in support of the status quo, expressing a view that is contrary to many new entrants and building owners, CAIS believes the ILECs' oppositions must be carefully scrutinized.

III. OPPONENTS ARE INCORRECT IN ARGUING AGAINST CHANGES IN DEMARCATION POINT RULES

The incumbent local exchange carriers who argue against changing the demarcation point to the MPOE defend their position on two related grounds: (a) significant technical difficulties will be encountered;^{10/} and (b) those technical difficulties will result in costs to consumers.^{11/} CAIS

^{6/} See, e.g., Joint Comments of Cornerstone Properties, *et al.* at 32 (arguing in favor of a consistent demarcation point policy), Comments of Apex Site Management, Inc. (expressing no opinion on location of the demarcation point).

^{7/} See, e.g., Comments of the Fixed Wireless Communications Coalition at 14; Comments of Dallas Wireless Broadband, LP at 9; Comments of First Regional Telecom, L.L.C. at 9; Comments of McLeodUSA Incorporated at 4; Comments of BlueStar Communications, Inc. at 3. See also, Comments of AT&T Corp. at 37

^{8/} See e.g., Comments of the Fixed Wireless Communications Coalition at 14; Comments of BlueStar Communications, Inc. at 3; Comments of McLeodUSA Incorporated at 4;

^{9/} See e.g., Comments of Ameritech at 8; BellSouth Comments at 19; Comments of Bell Atlantic at 9. *But see* Comments of GTE at 7.

^{10/} Bell South Comments at 19.

^{11/} Comments of Ameritech at 8-9.

believes that both of these concerns are exaggerated. First, CAIS believes it is already common practice to place provider-owned electronic equipment on the customer's side of the demarcation point. This practice is frequently used by ILECs when they offer bundled data and voice services. For example, frame relay services may be offered by an ILEC, bundled with the same provider's local voice services, on one T-1 circuit. This will require placement of electronic equipment (a PBX or MUX) on the customer's side of the demarc. Therefore, it is unreasonable for incumbents to assert that moving the point of demarcation to the minimum point of entry will always require relocation of electronics. In fact, the ILECs have already demonstrated that they can provide service from the central office, through the MPOE, to equipment located on the customer's side of the demarcation point. CAIS believes this is not a issue of technology, but the ILECs' own preference for maintaining the status quo.

IV. THE COMMISSION MUST EXERCISE ITS AUTHORITY TO RESOLVE THE VALUATION OF INSIDE WIRING OWNED BY INCUMBENT LECs.

The Commission has already exercised its control over inside wiring, and has engaged in substantial rulemaking concerning the issues of ownership and valuation. In spite of this history, CAIS has noted that the issues of cost and valuation appear unresolved. For example, GTE has commented that incumbent LECs should be compensated for expenses incurred in relocating the demarcation point to the MPOE.^{12/} CAIS believes that the actual costs will be slight, since

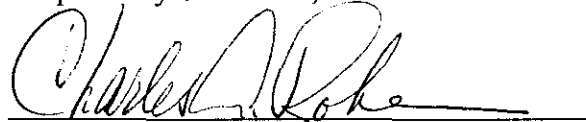
^{12/} Comments of GTE at 12.

relocation of equipment to the MPOE should not be an essential step in relocating the demarcation point, as discussed in the preceding paragraph. GTE also states that the present owners of in-house wiring must be compensated for the value of their existing facilities. GTE uses a "structural value" model for valuation of the wiring which it asserts is consistent with the FCC's current policy.^{13/} Assuming that this model is correctly stated, it would appear to impose unreasonable costs on those required to pay. CAIS believes that most ILEC-owned in-house wiring has been fully depreciated by reasonable accounting standards, and has a current value of less than the cost of its removal.

V. CONCLUSION

CAIS strongly supports the FCC in its efforts to open up multi-tenant environments to competitive telecommunications services. The weight of opinion expressed in the comments is that the demarcation point should be relocated to each building's MPOE. To prevent incumbents from delaying and driving up the cost of competitive entry, the Commission should provide oversight for a conversion to an approach in which building owners control intra-building wiring for the benefit of their tenants.

Respectfully Submitted,



Charles A. Rohe
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
(202) 424-7500

Counsel for CAIS, Inc.